

Order Granting Petitioner's Motion for Extension of Time; Denying Motion for Preliminary Injunction  
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1           Petitioner's motion for preliminary injunction requests the Court to compel Respondents  
2 to: (1) retain Petitioner at Mule Creek State Prison for the duration of the lawsuit; (2) return all  
3 of Petitioner's property; (3) allow Petitioner unobstructed access to the law library; and (4)  
4 prevent any retaliatory acts against Petitioner. "A plaintiff seeking a preliminary injunction must  
5 establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in  
6 the absence of preliminary relief, that the balance of equities tips in his favor, and that an  
7 injunction is in the public interest." Winter v. Natural Resources Defense Council, Inc., 129 S.  
8 Ct. 365, 374 (2008). In Winter, the Court rejected the Ninth Circuit's earlier approach that  
9 allowed issuance of a preliminary injunction based on the "possibility" of irreparable injury,  
10 determining that the movant must demonstrate that irreparable injury was likely to obtain a  
11 preliminary injunction. Id. at 375. Where the court concludes the movant has failed to show a  
12 likelihood of success on the merits, the court, in its discretion, need not consider whether the  
13 movant would suffer irreparable injury. Guzman v. Shewry, 552 F.3d 941, 948 (9th Cir. 2009).

14           Petitioner has fallen far short of making the necessary showing for interim relief. The  
15 likelihood of success on the merits is dubious at this point. Moreover, Petitioner has not proven  
16 that he actually faces irreparable harm. However, in light of Petitioner's allegations, the Court  
17 recognizes that prison officials must provide Petitioner with reasonable access to his legal  
18 materials and the law library so he can comply with the various filings and deadlines associated  
19 with this litigation. Petitioner's motion for a preliminary injunction is DENIED without  
20 prejudice.

21           IT IS SO ORDERED.

22           DATED: \_\_\_\_4/28/11\_\_\_\_

  
LUCY H. KOH  
United States District Judge